



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/534,520

05/11/2005

John Anthony Bosley

J3696(C)

5086

201 7590 06/10/2008
UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG West S. Wing
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

LILLING, HERBERT J

ART UNIT

PAPER NUMBER

1657

MAIL DATE

DELIVERY MODE

06/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,520	Applicant(s) BOSLEY ET AL.	
	Examiner HERBERT J. LILLING	Art Unit 1657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 8-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08-22-2005</u> . | 6) <input type="checkbox"/> Other: _____ |

The prior office action mailed May 13, 2008 has been withdrawn.

This application is in **condition for allowance of Claims 1-7** except for the following formal matters traversal of the withdrawn claims 8-13.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Grounds for maintaining the Restriction Requirement

1. Receipt is acknowledged of an election response filed September 4, 2007.
2. Claims 1-13 are pending in this application.
3. Applicant has elected with traverse Group I, claims 1-7.

The restriction was required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group II, claim 8, drawn to **a first product** of a mixture **of retinyl esters of fatty acids** prepared according to the method of claim 1, classified in Class 514, subclass 725.

Claim 10 will be examined with this invention.

Group III, claim 9, drawn to **a second product** which is a **composition of a mixture** of retinyl esters of fatty acids and containing a fat or oil, classified in Class 424, subclass 115.

Group IV, Claim 11, drawn to a **third product** which is a topical composition which contains retinyl esters of fatty acids classified in Class 424, subclass 60.

Claim 12 will be examined with Group IV invention.

Group V, claim 13, drawn to a method of providing at least one skin care benefit selected from: treating/preventing wrinkling, sagging, aged and/or photodamaged skin; boosting collagen deposition on skin, boosting decorin production in skin; soothing irritated, red and/or sensitive skin; improving skin texture, smoothness and/or firmness; providing anti-inflammatory benefits; enhancing skin differentiation; reducing sebum production; or the prevention or treatment of acne; comprising applying thereto a mixture of retinyl esters according to claim 8, classified in Class 424, subclass 401.

The above inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1 as indicated in view of the art of record in the PCT which clearly indicates that the inventions lack any inventive concept for the separated groups.

In view of the following the inventions are distinct, each from the other because of the following reasons:

Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have been shown to have these differences as noted by the international search report. Because these inventions are independent or distinct for the reasons given above and

Art Unit: 1657

there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, a different field of search and they have acquired a separate status in the art due to their recognized divergent subject matter as well as different computerized searches would be required for each of the above Inventions, restriction for examination purposes as indicated is proper.

Thus, the above restriction is proper according to the MPEP.

The search and examination of the instant claims which includes "solvent free conditions" whereby:

"the trans-esterification reaction is carried out in solvent free conditions. By this is meant that the composition contains less than about 10% solvent, preferably less than about 5% solvent, more preferably less than about 1% solvent, and preferably is totally solvent free." found that the claims are patentable over the art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HERBERT J. LILLING whose telephone number is 571-272-0918. The examiner can normally be reached on WORK AT HOME MAXIFLEX.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JON WEBER can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1657

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.J.Lilling: HJL

(571) 272-0918

Art Unit **1657**

June 05, 2008

/HERBERT J LILLING/
Primary Examiner, Art Unit 1657